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Letter dated 20 January 2006 from the Permanent Mission of Serbia and Montenegro to the United Nations addressed to the Chairman of the Committee

I have the honour to transmit herewith the report of Serbia and Montenegro on the implementation of Security Council resolution 1540 (2004) (see annex).

(*Signed*) Nebojsa **Kaludjerovic**
Permanent Representative

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Annex to the letter dated 20 January 2006 from the Permanent Mission of Serbia and Montenegro to the United Nations addressed to the Chairman of the Committee

Second report of the State Union of Serbia and Montenegro on the implementation of Security Council resolution 1540 (2004)

- The State Union of Serbia and Montenegro would like to thank for the letter received from the Chairman of the UN Security Council Committee established pursuant to resolution 1540 (2004)of 15 November 2005 and has the honor to present its Second National Report on the implementation of UN SCR 1540.

- Serbia and Montenegro reiterates its firm commitment to continuing full and effective implementation of UN SCR 1540, as a document which plays an essential role in preventing proliferation of weapons of mass destruction (WMD) and fight against terrorism at the global level.

- Serbia and Montenegro also supports other multilateral activities, in the form of initiatives and additional arrangements, whose mechanisms and instruments should contribute to strengthening efficiency of the existing WMD non-proliferation regimes.

- In the period following the submission of the First Report in 2004, Serbia and Montenegro has continued to pursue activities at the national level in order to reinforce its legal system and develop additional mechanisms and instruments in order to harmonize them with the international standards in the areas covered by UN SCR 1540. Consequently, our activities were directed, inter alia, to adopting several laws and creating the conditions enabling the required level of efficiency of national mechanisms and instruments to prevent WMD proliferation in any form.

- The control of arms exports plays a significant role in the global fight against WMD proliferation covered by UN SCR 1540. On 17 February 2005, Serbia and Montenegro adopted the Law on Foreign Trade in Weapons, Military Equipment and Dual-Use Goods, introducing an efficient national export regime ensuring full implementation of obligations arising from UN SCR 1540.

- Within the context of future activities concerning the implementation of UN SCR 1540, special attention will be devoted to working out additional mechanisms

with a view to elaborating a more comprehensive national programme in areas covered by UN SCR 1540.

- In particular, we highly appreciate the assistance of UK experts extended to us in 2005, regarding the process of setting up national management for implementation of international obligations related to UN SCR 1540. In view of complexity and importance of issues covered by UN SCR 1540, with particular emphasis on the fight against bio-terrorism, we would highly appreciate if the UK Government continued to extend its expert assistance as may be necessary.

Operative paragraph 1

Serbia and Montenegro is a State Party to the following international conventions, treaties and arrangements*:

- Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or other Gases and of Bacteriological Methods of Warfare. The Kingdom of Yugoslavia signed this Protocol on 17 June 1925 and ratified it on 28 February 1929;
- Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects, the so called inhuman weapons - (CCW), was ratified by the SFRY in 1983 and succeeded to by the FR of Yugoslavia on the basis of the 2001 successor statement;
- Nuclear Nonproliferation Treaty - (NPT) ratified by the SFRY in 1970 and succeeded to by the FR of Yugoslavia on the basis of the 2001 successor statement;
- Biological and Toxin Weapon Convention – (BWC) ratified by the SFRY in 1973, succeeded to by the FR of Yugoslavia on the basis of the 2001 successor statement;
- Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, ratified by the FRY in 2000 and succeeded to by the FR of Yugoslavia on the basis of the 2001 successor statement;
- Missile Technology Control Regime – (MTCR). Although not a State Party, in February 2004, Serbia and Montenegro undertook to honor MTCR documents: "Equipment, Software and Technology" Annex of 30 May 2003 and "Guidelines for Sensitive Missile-Relevant Transfers" of 7 January 1993;
- Comprehensive Test Ban Treaty – (CTBT), ratified by Serbia and Montenegro in 2004;

* Serbia and Montenegro, as a UN Member State, whose priority international goals among others include the accession to the Partnership for Peace and NATO and later full-fledged EU membership, wishes to become a full-fledged member of international non-proliferation regimes and agreements such as the Wassenaar Arrangement, Australian Group, Missile Technology Control Regime, etc.

- Convention on the Prohibition of the Use, Stockpiling, Production and Transfer or Anti-Personnel Mines and on Their Destruction, the so called Ottawa Convention (Antipersonnel Mine Ban Treaty – APM BT). Serbia and Montenegro deposited instruments of ratification to the UN Secretary-General in September 2003. The obligations arising from the Convention became effective as of 1 March 2004;
- Measures and instruments of Small Arms and Light Weapons – (SALW). Serbia and Montenegro submits annual reports which contain public and transparent replies to concrete questions and makes them available to UN Member States.

Operative paragraph 2

a) Law on foreign trade in weapons, military equipment and dual-use goods was adopted in the Assembly of Serbia and Montenegro on 17 February and it came into effect on 31 March 2005[†]. The Law defines the terms and conditions for foreign trade, transport and transit of weapons, military equipment and dual-use goods, the so called controlled goods, specifies their meaning, determines competent authorities for issuing licenses for exports, imports, transport, transit, mediation and services in foreign trade, terms for issuance of licenses, competencies of the competent authorities in implementing the laws, supervision and control and penalties for violations.

The licenses are issued by the Ministry of Foreign Economic Relations of Serbia and Montenegro with prior consent of the Ministry of Defense of Serbia and Montenegro and the Ministry of Foreign Affairs of Serbia and Montenegro, including the opinions of the Ministry of the Interior of a Member State in whose territory the company seeking a license is located. In case one of the ministries denies a license, the final decision shall be taken by the Council of Ministers of Serbia and Montenegro.

The Ministry of Foreign Economic Relations issues the end user certificates. The law provides for the control of all goods that may be connected to the weapons of mass destruction ("catch-all"). Transport and transit licenses are issued by the Ministries of the Interior of the Member States. Export licenses are issued on an individual case-to-case basis, and their validity is limited to one year.

[†] All regulations related to export controls of weapons, military equipment and dual use goods are published in national gazettes and may be accessed at the Ministry for Foreign Economic Relations web site www.umier.gov.yu

The law also specifies the lists of weapons, military equipment and dual-use goods, national control lists, in accordance with the Common List o Military Equipment covered by the European Union, Code of Conduct on Arms Export – 2000/C 191/01 and the Council Resolution EC No. 1334/2000 of 22 June 2000 setting up the Community regime for the control of exports of dual use items and technology. The above lists are updated on a regular basis subject to EU regulation changes[‡].

The present law prescribes fines for violators of export control including the protection measure of taking violators off the lists of persons that may engage in foreign trade in these goods, or impounding the goods in question. The ban to engage in trade may last up to three years, from the day the court's decision comes into effect.

This area has been regulated by the following laws:

- The Law on production and trade in weapons and military equipment ("Official Gazette of Serbia and Montenegro" No. 41/96);
- The Law on crossing the State border and movement in the border area" ("Official Gazette of Serbia and Montenegro" No. 34/79);
- The Law on weapons and ammunition" ("Official Gazette of the Republic of Serbia" No. 9/92 and "Official Gazette of the Republic of Montenegro" No. 49/04);
- The Law on Transport of Hazardous Substances ("Official Gazette of Serbia and Montenegro" No. 27/90);
- The Customs Law ("Official Gazette of the Republic of Serbia" No. 73/03 and "Official Gazette of the Republic of Montenegro" No. 7/02).

The issues from this field have also been regulated by other laws such as: The Law on Explosive Materials, Inflammable Liquids and Gases; The Law on Production and Trade in Toxic Materials; The Law on the Protection from Ionizing Radiation and the Law on the Production and Trade in Psychotropic Drugs.

b) New Criminal Code of the Republic of Serbia, adopted in October 2005 ("Official Gazette of the Republic of Serbia", No. 85 of 6 October 2005) which entered into force on 1 January 2006, contains several articles pertaining to illegal use,

[‡] The list of by-laws for the implementation of the Law on foreign trade in weapons, military equipment and dual use goods:

- Decision on the establishment of a national control lists of weapons and military equipment
- Decision on the establishment of national control lists for dual use goods
- Decision on criteria for the issuance of licenses for export of weapons, military equipment and dual use goods
- Rules of Procedure for keeping the Register of persons that may engage in foreign trade of controlled goods, and
- Rules of Procedure regulating the forms for issuing licenses, license forms and other forms related to foreign trade in controlled goods.

production and trade in weapons of mass destruction. The law envisages fines and prison terms for:

- illegal production (article 242);
- illegal trade (article 243);
- bringing hazardous materials in Serbia and illegal processing, disposal and storage of hazardous materials (article 266);
- causing public threat (article 278);
- illegal acquisition and endangering security by nuclear materials (article 287);
- terrorism (article 312);
- engaging in acts against constitutional order and security of Serbia or of Serbia and Montenegro (article 320);
- production and acquisition of weapons and means with an intent to commit a criminal act (article 347);
- illegal possession of weapons and explosive materials (article 348), use of illegal combat means (article 376);
- illegal production of prohibited weapons (article 377);
- international terrorism (article 391) and illegal use of weapons of service (article 413).

c) Criminal Law of the Republic of Montenegro which entered into force in April 2004, envisages criminal acts relating to:

- illegal production of prohibited arms (article 433);
- illegal handling of explosive and inflammable materials (article 335);
- unauthorized acquisition and handling of nuclear materials (article 336); and a threat to public safety by nuclear materials (article 337)[§].

In the Republic of Montenegro, the draft law is under preparation on the responsibility of legal persons for criminal acts, stipulating criminal sanctions against legal persons and criminal proceedings in which these sanctions are adjudicated. It is expected that the law be adopted in the first quarter of 2006.

d) With a view to implementing the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction whose State Party it is, Serbia and Montenegro adopted the Law on the prohibition of development, production, storage and use of chemical weapons and their destruction, in November 2005 ("Official Gazette of Serbia and Montenegro" No. 44/05). This law regulates the ban on development, production and trade in chemical weapons, the mandate of the national commission, cooperation with the Organization for the Prohibition of Chemical Weapons – (OPCW) in The Hague, as well as procedures to be followed in conducting international inspections.

[§] It is understood that by incriminating these criminal acts including those from Chapter XXVI of the present law, the provisions of UN SCR 1540 have been honored.

In view of the fact that chemical weapons in possession of Serbia and Montenegro was destroyed under the control of the international inspections by the Organization for the Prohibition of Chemical Weapons and that its production has been prohibited, it was generally agreed that there was no need to regulate measures for its storage and safeguarding.

Within the Ministry of Foreign Affairs, there is a Commission of Serbia and Montenegro, in order to follow and coordinate activities at the level of the State Union, for the implementation of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction.

e) The draft Law on handling dual use chemical and discreet organ substances is currently before the National Assembly of the Republic of Serbia. The law regulates the regime for handling chemical substances in the course of their production and use for peaceful purposes (industrial, agricultural, science/research, etc.). The law will also stipulate appropriate inspection procedures.

f) The draft Law on the prohibition of use, development, production, storage and trade in biological weapons is currently under preparation, and its adoption in the Assembly of Serbia and Montenegro is expected in 2006. Thus, the national legislation will incorporate the provisions from the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, whose State Party Serbia and Montenegro is. Among other things, the law will regulate: establishment of national focal point for the implementation of BWC; registration and licensing of all laboratories, institutions, factories and other installations that are dealing with biological agents; the obligation of the Commission to submit an annual report to the UN Department for Disarmament Affairs on confidence-building measures; penal sanctions for violators of the law. In 2006 and subsequent years, relevant by-laws will be adopted which will regulate in detail the terms and activities in the field of biological safety and trade in biological agents.